

that the BOCs have not proposed to federally tariff coin service features, such as coin supervision, coin counting, and coin rating.⁶ APCC argues further that because a basic payphone line can be purchased without coin service features, these features are not inherently a part of the basic payphone line, and, therefore, should be tariffed separately as "unbundled features and functions" at the federal level.⁷

C. Discussion

15. The RBOC Coalition and APCC have made ex parte presentations to the Commission staff that set forth varying interpretations of the Commission's federal tariffing requirements for payphone services. We conclude that the RBOC Coalition interpretation of the federal tariffing requirement established in the two payphone orders is too narrow and does not reflect the level of federal tariffing of unbundled features and functions required by those orders. More specifically, the RBOC Coalition's interpretation does not comply with the Commission's objective of safeguarding against discrimination through the federal tariffing of unbundled features, because the Coalition does not include the unbundled features and functions provided by LECs to others, apart from those taken by a LEC's own payphone operations. The Payphone Reclassification Proceeding concluded that state and federal tariffing of both the payphone unbundled features and functions provided to others and the unbundled features and functions provided by the LEC to its own payphone operations must be tariffed to avoid possible subsidies and discrimination.⁸

16. On the other hand, we conclude that APCC's interpretation of the federal tariffing requirement established in the Payphone Reclassification Proceeding is too broad and would require a greater unbundling of payphone features than is required by that proceeding. The payphone orders, however, do not require that LECs unbundle more features and functions from the basic payphone line by April 15, 1997 than the LEC provides on an unbundled basis.⁹ Thus, we clarify that, for example, if a LEC provides answer supervision bundled with the basic payphone line, the LEC is required neither to unbundle that service from its state tariff for payphone service, nor federally tariff that service by April 15, 1997.¹⁰ If the LEC, however, provides answer supervision on an unbundled basis, it must tariff that service in both the state and federal jurisdictions. -

17. We clarify here that the unbundled features and functions addressed in the

⁶ Id. at 5.

⁷ Id. at 6.

⁸ Payphone Order at para. 148; Order on Reconsideration at paras. 162-163.

⁹ Payphone Order at para. 148; Order on Reconsideration at para. 165.

¹⁰ As discussed below in para. 18, a state may require further unbundling, and PSPs may request additional unbundled features and functions from BOCs through the ONA 120-day service request process.

Payphone Reclassification Proceeding are network services similar to basic service elements ("BSEs") under the ONA regulatory framework. BSEs are defined as optional unbundled features that an enhanced services provider may require or find useful in configuring its enhanced service.⁴⁷ In this case, the unbundled features are payphone-specific, network-based features and functions used in configuring unregulated payphone operations provided by PSPs or LECs. Some of the LECs use terms such as tariffed "options" and "elective features" for network services that other LECs call features and functions. Options and elective features must be federally tariffed in the same circumstances as features and functions must be federally tariffed, depending on whether they are provided on a bundled basis with the basic network payphone line (state tariff), or separately on an unbundled basis (federal and state tariffs).⁴⁸

18. We also clarify that the requirement to file federal tariffs applies only to payphone-specific, network-based, unbundled features and functions provided to others or taken by a LEC's operations, such as answer supervision and call screening, with the following qualifications discussed below.⁴⁹ We agree with the RBOC Coalition that the federal tariffing requirement does not apply to non-network services, such as inside wire services.⁵⁰ Moreover, as suggested by the RBOC Coalition, we do not include in this federal tariffing requirement features and functions that are generally available to all local exchange customers and are only incidental to payphone service, such as touchtone services and various custom calling features.⁵¹ In addition, we clarify here that payphone-specific, network-based features and functions must be federally tariffed now only if the LEC provides them separately and on an unbundled basis from the basic payphone line, either to its payphone operations or to others, because the payphone orders did not require additional unbundling of features and functions by April 15 beyond those that the LEC chooses to provide.⁵² As required by the Payphone Reclassification Proceeding.

⁴⁷ Filing and Review of Open Network Architecture Plans, Phase I, Memorandum Opinion and Order, FCC 88-381, 4 FCC Red 1 (1988) ("BOC ONA Order").

⁴⁸ See, e.g., Application of Open Network and Nondiscrimination Safeguards to GTE Corporation, 11 FCC Red 5558 (1995) at para. 11.

⁴⁹ Filing and Review of Open Network Architecture Plans, Phase I, Memorandum Opinion and Order, 4 FCC Red 1 (1988) ("BOC ONA Order"); Payphone Order at para. 146; Order on Reconsideration at paras. 162, 166. Examples of other unbundled features and functions that must be federally tariffed if they are offered on an unbundled basis to others or taken by a LEC payphone operation on an unbundled basis include: call blocking, coin supervision additive, coin signaling transmission additive, coin rating, original line number screening, and IDDD blocking.

⁵⁰ Ex Parte Letter of Michael Kellogg, Counsel, RBOC Coalition to Mary Beth Richards, Deputy Chief, Common Carrier Bureau, FCC (March 25, 1997) at 2; Ex Parte Letter of Robert F. Aldrich, Counsel, APCC to William F. Cason, Acting Secretary, FCC (March 27, 1997) at 2.

⁵¹ Ex Parte Letter of Michael Kellogg, Counsel, RBOC Coalition to Mary Beth Richards, Deputy Chief, Common Carrier Bureau, FCC (March 25, 1997) at 2.

⁵² Payphone Order at para. 148.

however, a state may require further unbundling, and PSPs may request additional unbundled features and functions from BOCs through the ONA 120-day service request process.⁵³

19. The RBOC Coalition argues that Computer III prohibits mix and match of federal and state tariffs required by the Payphone Reclassification Proceeding.⁵⁴ In contrast, APCC argues that the reasons for prohibiting mix and match do not apply for tariffs filed pursuant to the payphone orders because the Commission has required that rates for both state and federal tariffs must be cost-based and subject to the new services test.⁵⁵ We conclude that the Payphone Reclassification Proceeding does not prohibit the mixing and matching of payphone services between federal and state tariffs by LEC and independent payphone operations. This conclusion applies only to payphone services and does not affect Computer III requirements.⁵⁶ In Computer III, the Commission did not allow such mixing and matching because: (1) mixing and matching could result in mismatch of basic service arrangements ("BSA") and BSEs costs and revenues; (2) it could undermine state policies; (3) states may impose terms and conditions on BSAs/BSEs that differ from those of the FCC; and (4) other jurisdictional problems.⁵⁷ Unlike Computer III, however, Section 276 provides the Commission with jurisdiction over all tariffing of payphone services.⁵⁸ The Commission has delegated to each state the review, pursuant to federal guidelines, of payphone tariffs filed in the state.⁵⁹ Given that the federal guidelines for tariffing discussed above⁶⁰ are the same in the state and federal jurisdictions, there is no undermining of state policies or the creation of jurisdictional conflicts. Moreover, in this case, mixing and matching provides a safeguard to ensure that unbundled features are available at rates that comply with the guidelines established in the Payphone Reclassification Proceeding. We conclude that the separations issues, if any, raised by allowing mixing and matching are outweighed, in this case, by the importance of this safeguard to ensure that unbundled features

⁵³ Id.

⁵⁴ Ex Parte Letter of Michael Kellogg, Counsel, RBOC Coalition to Mary Beth Richards, Deputy Chief, Common Carrier Bureau (March 25, 1997).

⁵⁵ Ex Parte Letter of Albert Kramer, Counsel, APCC to Mary Beth Richards, Deputy Chief, Common Carrier Bureau (March 27, 1997).

⁵⁶ Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, Notice of Proposed Rulemaking, CC Docket No. 89-79, 6 FCC Red 4524, 4535, para. 63 (1991).

⁵⁷ Id. See also Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, Notice of Proposed Rulemaking, CC Docket No. 89-79, 4 FCC Red 3983, 3989 at para. 43 (1989).

⁵⁸ Payphone Order at paras. 146-147.

⁵⁹ Order on Reconsideration at para. 163.

⁶⁰ Payphone Order at para. 146; Order on Reconsideration at para. 163. See also para. 2, above.

and functions are available at rates that comply with the guidelines established in the Payphone Reclassification Proceeding.⁴¹

D. Waiver

20. As discussed above,⁴² upon reviewing the contentions of the RBOC Coalition and the language it cites from the two orders in the Payphone Reclassification Proceeding, we conclude that while the individual BOCs are not in full compliance with the requirements of the Payphone Reclassification Proceeding, they have made a good faith effort to comply with the requirements. The RBOC Coalition concedes that the Commission's payphone orders mandate the federal tariffing of some payphone services, namely those that the LEC provides to its own payphone operations.⁴³ In addition, the RBOC Coalition states that it will take whatever action is necessary to comply with the Commission's orders in order to be eligible to receive payphone compensation at the earliest possible date.⁴⁴ Therefore, because the RBOC Coalition has indicated its intent to comply with the Commission's requirements, as established by the Payphone Reclassification Proceeding, and because the Coalition's narrower reading of what payphone services need to be federally tariffed is based on its good faith efforts to comply with the Commission's rules, we adopt this Order, which contains a limited waiver of the federal tariffing requirements for unbundled features and functions a LEC must meet before it is eligible to receive payphone compensation. Because other LECs may also have failed to file all the federal tariffs for unbundled features and functions required by the Payphone Order and the Order on Reconsideration, we apply this limited waiver to all LECs, with the limitations set forth below.⁴⁵

21. In the Payphone Order and Order on Reconsideration, the Commission required that LECs file federal tariffs by January 15, 1997 with a 90-day review period for unbundled features and functions.⁴⁶ Consistent with our conclusions above and in the interests of bringing LECs into compliance with the requirements of the Payphone Reclassification Proceeding, we waive for 60 days the requirement that LECs have "in effect ... interstate tariffs

⁴¹ The Commission is undertaking a proceeding to reform the separation rules. Any problems, if they exist, will be considered in that proceeding. See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, Usage of the Public Switched Network by Information Service and Internet Access Providers, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, CC Docket Nos. 96-262, 94-1, 91-213, 96-263, FCC 96-488 (rel. Dec. 24, 1996) at para. 6.

⁴² See para. 15, above.

⁴³ Ex Parte Letter of Michael Kellogg, Counsel, RBOC Coalition to Mary Beth Richards, Deputy Chief, Common Carrier Bureau (March 19, 1997).

⁴⁴ Id.

⁴⁵ See paras. 21-23, below.

⁴⁶ Order on Reconsideration at para. 131 (emphasis added).

for unbundled functionalities associated with [payphone] lines" by April 15, 1997.⁶⁶ We also waive both the January 15th filing deadline and the 90-day review period for interstate tariffs. LECs must file interstate tariffs for unbundled features and functions, as required by the Payphone Reclassification Proceeding, as clarified herein, within 45 days after the release date of this order under the streamlined tariff review process. These tariffs will be effective no later than 15 days after filing, unless suspended or rejected.⁶⁷ Any LEC that files federal tariffs for unbundled functionalities, as clarified herein, within 45 days of the release date of the instant Order will be eligible to collect the payphone compensation provided by the Payphone Reclassification Proceeding on April 15, 1997, as long as that LEC has complied with all of the other requirements set forth in paragraph 131 (and paragraph 132 for the BOCs) of the Order on Reconsideration.⁶⁸ If a LEC fails to file all of the requisite federal tariffs within 45 days, or if the federal tariffs for a particular LEC are not in effect after 60 days from the date of release of this Order, the LEC will not be eligible to receive the payphone compensation provided by the Payphone Reclassification Proceeding.

22. In addition, each individual BOC must also file a written ex parte document, by April 10, 1997, advising on the status of intrastate tariffs for the features and functions that it has not yet federally tariffed, and stating that it commits to filing federal tariffs for such features and functions within 45 days of the release date of this Order. Submission of this ex parte is necessary before the Bureau may act on the BOCs' pending CEI plans.

23. Waiver of Commission rules is appropriate only if special circumstances warrant a deviation from the general rule⁶⁹ and such deviation serves the public interest.⁷⁰ Because the Commission is required to review incoming tariffs for the unbundled features and functions associated with payphone service, which have not been previously filed at the interstate level, we find that special circumstances exist in this case to grant a limited waiver of brief duration to address this responsibility. In addition, for the reasons stated above, our grant of a waiver in this limited circumstance, would not undermine, and is consistent with, the Commission's overall policies in CC Docket No. 96-128 to reclassify LEC payphone assets and ensure fair PSP compensation for all calls originated by payphones. Moreover, our review of the interstate tariffs that are the subject of this limited waiver will enable us to determine whether these tariffs have been filed in accordance with our rules. Accordingly, we grant a limited

⁶⁶ 14.

⁶⁷ 47 U.S.C. § 402; Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996, CC Docket No. 96-187, Report and Order, FCC 97-23 (rel. Jan. 31, 1997).

⁶⁸ Because the industry has elected to bill for and pay our compensation on a quarterly basis, the actual payment for compensation that begins to accrue on April 15, 1997 will not be made until after the requisite federal tariffs become effective within 60 days after the release date of the instant Order.

⁶⁹ Northeast Cellular Telephone Company v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁷⁰ WAT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

waiver, as specified in this Order,⁷² subject to the filing of federal tariffs for unbundled features and functions within 45 days of the release date of this Order. This Order does not waive any of the other requirements set forth in paragraphs 131-132 of the Order on Reconsideration, including the requirement that a LEC have "in effect intrastate... tariffs for unbundled functionalities..."⁷³

IV. CLARIFICATION OF STATE TARIFFING REQUIREMENTS

A. Background

24. The Commission concluded in the Order on Reconsideration that LECs are required to tariff basic payphone lines (smart, dumb, and inmate⁷⁴) at the state level only.⁷⁵ Unbundled features and functions provided to others and taken by a LEC's payphone operations, however, must be tariffed in both the intrastate and interstate jurisdictions.⁷⁶

25. In addition, in the Payphone Order, the Commission required that, pursuant to the mandate of Section 276(b)(1)(B), incumbent LECs must remove from their intrastate rates any charges that recover the costs of payphones. The Payphone Order required that states determine the intrastate rate elements that must be removed to eliminate any intrastate subsidies. These revised rates must be effective no later than April 15, 1997.⁷⁷

B. Comments

26. APCC filed a motion that the Commission rule that LECs are ineligible to receive payphone compensation because they have not tariffed their services to PSPs at cost-based rates, and have not tariffed the "basic payphone line" separately from "coin service" features and other unbundled functions, as required in paragraphs 162-163 of the Order on Reconsideration.⁷⁸ APCC states that it is filing its motion to request that the Commission declare, "if not within the

⁷² See paras. 20-23, above.

⁷³ Id. (emphasis added).

⁷⁴ The Commission noted in the Order on Reconsideration, at para. 131, that the LECs would also have to tariff basic services for inmate phone lines.

⁷⁵ Id. at paras. 162-163. The Commission provided guidelines pursuant to which the states are to review the state tariffs subject to the Payphone Reclassification Proceedings. Id. at para. 163.

⁷⁶ Id. at paras. 162-163.

⁷⁷ Payphone Order at para. 186.

⁷⁸ Motion of the American Public Communications Council for a Ruling on the Bell Operating Companies' Compliance with the Payphone Orders, CC Docket No. 96-128, filed March 26, 1997 at 1-2 ("APCC Motion").

CEI proceeding then in a separate ruling," that the BOCs must satisfy these requirements.⁷⁹ APCC also argues that the BOCs have not complied with the Commission's requirements that all services offered to PSPs be offered at cost-based rates complying with the FCC's "new services" test.⁸⁰ APCC contends that "[a]lthough the FCC stated that it will rely on the states to determine...whether state-tariffed services comply with the Payphone Orders and Section 276, the Commission made it clear that if a state is unable to review the tariffs, the Commission will do so."⁸¹

27. The RBOC Coalition argues in an *ex parte* filing that the new services test, as referenced in note 492 of the Order on Reconsideration, applies only to unbundled elements of the lines used for "dumb" payphones, which have not been provided to independent PSPs in the past.⁸² The RBOC Coalition argues further that a contrary reading would (1) require the states to apply a federal test to a purely intrastate service, and (2) require the states to apply the new services test in circumstances where the test does not apply in the federal arena, because the services at issue are not new.⁸³

28. In *ex parte* presentations, both AT&T and MCI argue that some LECs have not acted to eliminate intrastate payphone costs and subsidies from their intrastate payphone tariffs, as required by the Payphone Reclassification Proceeding.⁸⁴ AT&T requests that the Commission act promptly to enforce these requirements to prevent LECs from claiming entitlement to interim payphone compensation before they have complied with the Commission's requirements.⁸⁵ GTE recently made an *ex parte* presentation on the intrastate tariffs it filed in 29 jurisdictions, and it noted that the status of these tariffs varies from state to state.⁸⁶ APCC maintains that the LECs must file intrastate tariffs for payphone services that are cost-based,

⁷⁹ *Id.*

⁸⁰ *Id.* at 4.

⁸¹ *Id.* at 4-5.

⁸² *Ex Parte* Letter of Michael Kellogg, Counsel, RBOC Coalition to Mary Beth Richards, Deputy Chief, Common Carrier Bureau, FCC (April 3, 1997).

⁸³ *Id.*

⁸⁴ *Ex Parte* Letter of E.E. Estey, Government Affairs Vice President, AT&T to Regina Kasey, Chief, Common Carrier Bureau, FCC (March 28, 1997); *Ex Parte* Letter of Leonard Sawicki, FCC Affairs Director, MCI to William Cason, Acting Secretary, FCC (March 20, 1997).

⁸⁵ *Ex Parte* Letter of E.E. Estey, Government Affairs Vice President, AT&T to Regina Kasey, Chief, Common Carrier Bureau, FCC (March 28, 1997).

⁸⁶ *Ex Parte* Letter of Sharon J. Harris, Director - Policy Matters, GTE to William Cason, Acting Secretary, FCC (April 3, 1997).

consistent with the requirements that certain subsidies be terminated, and nondiscriminatory.²⁷

C. Discussion

29. We deny the APCC Motion that requests that the Commission conclude that the BOCs are disqualified from receiving interim compensation pursuant to the Payphone Reclassification Proceeding.²⁸ APCC argues that the BOCs have failed both to retariff their basic payphone services at cost-based rates, and to tariff separately from basic payphone lines coin service features and other unbundled features and functions.²⁹ We have clarified above that the Payphone Reclassification Proceeding did not require, by April 15, 1997, the level of unbundling sought by APCC.³⁰ LECs, including the BOCs, must comply with the state tariffing requirements of the Payphone Reclassification Proceeding. In response to APCC's contentions, we conclude that we do not have a record to determine here whether the BOCs have complied with the state tariffing requirement for cost-based rates. As required by the Order on Reconsideration, however, LECs, including the BOCs, must be prepared to certify that they have complied with all the requirements of the Payphone Reclassification Proceeding, including those involving intrastate tariffs, subject to the limited waiver provided herein.

30. We emphasize that LECs must comply with all of the enumerated requirements established in the Payphone Reclassification Proceeding, except as waived herein, before the LECs' payphone operations are eligible to receive the payphone compensation provided by that proceeding. Both independent PSPs and IXCs claim that some LECs have not filed state tariffs that comply with the requirements set forth in the Order on Reconsideration. These requirements are: (1) that payphone service intrastate tariffs be cost-based, consistent with Section 276, and nondiscriminatory;³¹ and (2) that the states ensure that payphone costs for unregulated equipment and subsidies be removed from the intrastate local exchange service and exchange access service rates.³² LEC intrastate tariffs must comply with these requirements by April 15, 1997 in order for the payphone operations of the LECs to be eligible to receive payphone compensation.³³ As discussed above,³⁴ LECs that have not complied with these

²⁷ Ex Parte Letter of Albert Kramer, Counsel, APCC to Mary Beth Richards, Deputy Chief, Common Carrier Bureau, FCC (March 28, 1997).

²⁸ APCC Motion at 1, 4-5.

²⁹ Id.

³⁰ See para. 15, above.

³¹ Order on Reconsideration at para. 163. As stated in the Order on Reconsideration, the intrastate tariffs are subject to the new services test. Order on Reconsideration at para. 163, n. 492.

³² Payphone Order at para. 148.

³³ Any party who believes that a particular LEC's intrastate tariffs fail to meet these requirements has the option of filing a complaint with the Commission. 47 U.S.C. § 208.

requirements will not be entitled to receive compensation.

31. We disagree with the RBOC Coalition regarding the applicability of the federal guidelines for state tariffing of payphone services. The Commission concluded in the Order on Reconsideration that it had jurisdiction over the tariffing of payphone services in order to implement Section 276.²¹ The plain language of the Order on Reconsideration provides that state tariffs for payphone services must be cost based, consistent with the requirements of Section 276, nondiscriminatory, and consistent with Comcast III guidelines. The footnote referred to by the RBOC Coalition provides references to Commission orders describing the applicable Comcast III guidelines.²²

32. The guidelines for state review of intrastate tariffs are essentially the same as those included in the Payphone Order for federal tariffs. On reconsideration, the Commission stated that although it had the authority under Section 276 to require federal tariffs for payphone services, it delegated some of the tariffing requirements to the state jurisdiction. The Order on Reconsideration required that state tariffs for payphone services meet the requirements outlined above.²³ The Order on Reconsideration provides that states that are unable to review these tariffs may require the LECs to file the tariffs with the Commission.²⁴

33. We clarify that, for purposes of meeting all of the requirements necessary to receive payphone compensation, the question of whether a LEC has effective intrastate tariffs is to be considered on a state-by-state basis. Under this approach, assuming the LEC has complied with all of the other compliance list requirements,²⁵ if a LEC has effective intrastate tariffs in State X and has filed tariffs in State Y that are not yet in effect, then the LEC PSP will be able to receive payphone compensation for its payphones in State X but not in State Y. The intrastate tariffs for payphone services, including unbundled features, and the state tariffs removing payphone equipment costs and subsidies must be in effect for a LEC to receive compensation in a particular state.

²¹ See paras. 6, 21, 29, above.

²² Order on Reconsideration at para. 162.

²³ Id. at para. 163, n. 492.

²⁴ See para. 29, above.

²⁵ Order on Reconsideration at para. 163.

²⁶ See id. at paras. 131-132.

V. CONCLUSION

34. This Order advances the twin goals of Section 276 of the Act by promoting both competition among payphone service providers ("PSPs") and the widespread deployment of payphone services to the benefit of the general public.¹⁶⁰ In this Order, we clarify the Commission's interstate tariffing requirements for unbundled features and functions, as set forth in the Payphone Reclassification Proceeding. LECs must comply with these requirements before they are eligible to receive the compensation from DCEs that is mandated in that proceeding. Because some LECs are not in compliance with the Commission's unbundled feature and functions federal tariffing requirements under the Payphone Reclassification Proceeding, we grant all LECs a limited waiver of the deadline for filing the federal tariffs for certain unbundled features and functions, to the extent necessary, and grant a limited waiver of the requirement that these tariffs be effective before the LECs are eligible to receive payphone compensation. Pursuant to this waiver, LECs must file federal tariffs for unbundled features and functions within 45 days of the release date of this order. Each individual BOC must also file a written *ex parte* document, by April 10, 1997, advising on the status of intrastate tariffs for the unbundled features and functions that it has not yet federally tariffed, and stating that it commits to filing federal tariffs for such unbundled features and functions within 45 days of the release date of this Order. Each of the BOCs must also file a copy of its *ex parte* in its CEI plan proceeding by April 10, 1997. We also waive the requirement, for a period of 60 days from the release date of this Order, that these federal tariffs be effective before the LECs are eligible to receive payphone compensation. This Order does not waive any of the other requirements with which the LECs must comply before receiving compensation.¹⁶¹

35. We emphasize that LECs must have effective state tariffs that comply with the requirements set forth in the Order on Reconsideration. These requirements are: (1) that payphone services state tariffs must be cost-based, consistent with Section 276, nondiscriminatory,¹⁶² and consistent with Computer III tariffing guidelines; and (2) that payphone costs for unregulated equipment and subsidies be removed from the intrastate local exchange service and exchange access service rates. LEC intrastate tariffs must comply with these requirements by April 15, 1997 for the payphone operations of LECs to receive payphone compensation. As discussed above, for LECs that have not complied with these requirements, their payphone operations will not be entitled to compensation pursuant to the Payphone Reclassification Proceeding, in the states in which they do not comply.¹⁶³

¹⁶⁰ 47 U.S.C. § 276(b)(1).

¹⁶¹ *Id.*

¹⁶² *Id.* at para. 163.

¹⁶³ See paras. 6, 21, 29, above.

VL ORDERING CLAUSES

36. Accordingly, IT IS ORDERED, pursuant to Sections 4(i), 5(c), 201-205, 276 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c), 201-205, 276, and Sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that limited waiver of the Commission's requirements to be eligible to receive the compensation provided by the Payphone Reclassification Proceeding, CC Docket No. 96-128, IS GRANTED to the extent stated herein.

37. IT IS FURTHER ORDERED that each individual BOC must file an ex parte document with the Secretary, by April 10, 1997, advising on the status of intrastate tariffs for the unbundled features and functions that it has not yet federally tariffed, and stating that it commits to filing federal tariffs for such unbundled features and functions within 45 days of the release date of this Order.¹⁰⁴

38. IT IS FURTHER ORDERED that this limited waiver SHALL BE EFFECTIVE upon release.

39. IT IS FURTHER ORDERED that the Motion of APCC requesting that the Commission conclude that the BOCs are disqualified from receiving interim compensation under the Payphone Reclassification Proceeding IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Regina M. Keeney
Regina M. Keeney
Chief, Common Carrier Bureau

¹⁰⁴ Each BOC should provide a copy of its ex parte document directly to the Chief, Common Carrier Bureau.

Document #2

97-0545-PP-ONE?
Under Seal.

150 East Gay Street
Room 1944
Columbus, OH 43215-3111

Ameritech

May 16, 1997

NOTE: CONFIDENTIAL ENCLOSURES

Roger Montgomery
Telecommunications Division
Public Utilities Commission of Ohio
180 East Broad Street, 3rd Floor
Columbus, Ohio 43215-3793

TELECOMMUNICATIONS
FCCO
MAY 16 1997
RECEIVED

Re: Pay Telephone Tariffs

Dear Mr. Montgomery:

Transmitted with this letter are cost support materials relating to the COCOT-Coin Line and COCOT Line tariffs of Ameritech Ohio.

These materials, along with other materials being filed concurrently (copies of which are also being provided to you), are submitted under the pay telephone provisions of Section 276 of the Telecommunications Act of 1996 and the orders of the Federal Communications Commission ("FCC") implementing that law in its CC Docket No. 96-128. There, the FCC has required Local Exchange Carriers (among other things) to file certain tariffs with state regulatory commissions in order that the LECs' affiliated payphone operations may become eligible to receive payphone compensation from interexchange carriers. To the extent that such tariffs did not already exist, the above-named tariffs were originally filed with this commission under such FCC orders and pursuant to the applicable provisions of Advantage Ohio.

In the more recent Order of the Chief, Common Carrier Bureau, released April 15, 1997, the FCC has clarified the intent of its earlier orders to require that the LECs' state tariffs meet the "new services test" set out in the FCC's rules at 47 C.F.R. 61.49(g)(2), without regard to whether any of the services were actually "new" services. The enclosed materials are intended to cure any technical defects in that regard.

As reflected in the FCC's April 15 Order, Ameritech Ohio has agreed that if state commissions, upon reviewing these new materials concerning the "new services test," require any

Roger Montgomery
May 16, 1997
Page 2

tariff rates to be revised downward, Ameritech Ohio will make refunds of those rates back through April 15, 1997. However, Ameritech Ohio believes that the above-listed tariffs met the FCC's new services test at the time of such tariffs' filing and that the documentation accompanying this letter, had it been submitted at that time, would have fully demonstrated their compliance. Therefore, the further documentation does not result in any change in the existing rates in those tariffs. Consequently, it will not be necessary for this Commission to take any further action. Indeed, the FCC's April 15 Order, in Paragraph 8, specifically contemplates that state commissions may conclude that existing tariffs are consistent with the requirements of Section 276 and the FCC's several orders and that "in such case no further filings are required."

These cost studies are submitted to you on a proprietary basis, as is customary in the case of such cost studies.

Thank you for your attention to this matter. Please contact at 614/223-5930 if you have any questions.

Very truly yours,



Vitas R. Cyvas

Enclosures

Document #3



6/24/97

150 East Gay Street
Room 19S
Columbus, OH 43215
Office 614/223-7928
Fax 614/223-5955

54

Jon F. Kelly
Attorney

June 23, 1997

Daisy Crockron, Chief
Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street, 10th Floor
Columbus, Ohio 43215-3793

Re: Pay Telephone Services
Case No. 96-1310-TP-COI

PUCO

97 JUN 23 PM 3:59

RECEIVED-DOCKETING DIV

Dear Ms. Crockron:

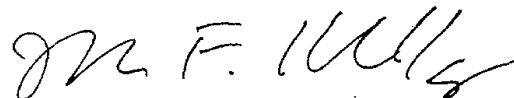
Pursuant to the Entry adopted by the Commission on May 22, 1997, in the referenced case, Ameritech Ohio submits for filing proposed revised tariff sheets that reflect (1) that all end-user coin sent-paid charges and directory assistance charges assessed to end users at pay telephones will be deregulated after October 7, 1997 and (2) that semi-public and public telephone service will no longer be provided after October 7, 1997. The tariff sheets are presented in the customary "ATA" format.

In accordance with Finding 14 of the Entry, Ameritech Ohio has performed a review of the payphone provisions of its tariff to ensure that they are consistent with the requirements of Section 276 of the Telecommunications Act of 1996, the FCC's orders in CC Docket No. 96-128, and this Commission's orders.

Lastly, the Entry generally requires the LECs to confirm that CCLC reductions have occurred on an intrastate basis equal to those required by the FCC for interstate services in connection with their payphone services (Entry, p. 7). The Entry also recognizes, in Finding 10, that because Ameritech Ohio's intrastate CCLC has since been reduced to zero, no further reductions are required. Thus, no further reductions are proposed by Ameritech Ohio.

Thank you for your attention to this matter. Please contact me if you have any questions.

Very truly yours,



Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician SW Date Processed 6/24/97



Before
THE PUBLIC UTILITIES COMMISSION OF OHIO

Application Not for an Increase in Rates,
pursuant to Section 4909.18 Revised Code

In the Matter of the Application)	
of Ameritech Ohio to Revise its)	
Ameritech Tariff, P.U.C.O. No. 20,)	Case No. <u>96-1310-TP-COI</u>
To Reflect that Directory Assistance)	
Charges are Deregulated after)	
October 7, 1997.)	
)	
)	

1. APPLICANT RESPECTFULLY PROPOSES: (Check applicable proposals)

- | | |
|---|--|
| <input type="checkbox"/> New Service | <input checked="" type="checkbox"/> Change in Rule or Regulation |
| <input type="checkbox"/> New Classification | <input type="checkbox"/> Reduction in Rates |
| <input type="checkbox"/> Change in Classification | <input type="checkbox"/> Correction of Error |
| <input type="checkbox"/> Other, not involving increase in rates: | |
| <input checked="" type="checkbox"/> Various related and unrelated textual revisions, without change in intent | |

2. DESCRIPTION OF PROPOSAL:

To reflect that directory assistance charges are deregulated after October 7, 1997.

3. AMERITECH TARIFF, P.U.C.O. NO. 20:

Part(s):

2, 3, 11 and 13

Part Title(s):

General Terms and Conditions
Service Charges
Operator Services
Public Telephone Services

Section(s):

1 and 2

Section Title(s):

Definitions and Abbreviations
Service Charges
Directory Assistance
Ameritech Payphone Services
Independent Payphone Provider Services

Paragraph(s):

1. and 2.

4. Attached hereto and made a part hereof are: (Check applicable Exhibits)
- (X) Exhibit A - existing schedule sheets (to be superseded) if applicable.
 - (X) Exhibit B - proposed schedule sheets.
 - () Exhibit C-1 -
 - (a) if new service is proposed, describe;
 - (b) if new equipment is involved, describe (preferably with a picture, brochure, etc.) and where appropriate, a statement distinguishing proposed service from existing services;
 - (c) if proposed service results from customer requests, so state, giving if available, the number and type of customers requesting proposed service.
 - (X) Exhibit C-2 - if a change of classification, rule or regulation is proposed, a statement explaining reason for change.
 - () Exhibit C-3 - statement explaining reason for any proposal not covered in Exhibits C-1 or C-2.
 - () Exhibit D - Data Requirements pursuant to PUCO Rules 4901:1-8-01 through 4901:1-8-03.
5. This application will not result in an increase in any rate, joint rate, toll, classification, charge or rental.
6. Applicant respectfully requests the Commission to permit the filing of the proposed schedule sheets, to become effective on the date, subsequent to filing, to be shown on the proposed schedule sheets which will be filed with the Commission; and to be in the form of the schedule sheets in Exhibit B, modified by any further revisions that have become effective prior to the effective date of the proposed schedule sheets.

Vitas R. Cyvas
Applicant

Director
Title

150 East Gay Street, Room 4C
Columbus, Ohio 43215

Address

(614) 223-5930
Telephone Number

PART 2 - General Terms and Conditions
SECTION 1 - Definitions and Abbreviations

Original Sheet No. 9

1. DEFINITIONS OF TERMS (Cont'd)

Premises Wiring

Interior wiring on the customer's side of the Network Interface at the customer's premises which is used for the connection of terminal equipment. The installation and maintenance of premises wiring is provided on a non-regulated basis.

Private Property

The continuous plot of ground owned or leased and occupied by a customer and not separated by public highways or by property occupied by others.

Public Highway

A road, street, highway, way, lane or alley under the control of and kept by the public.

Public Telephone Station

A company station installed at the Telephone Company's initiative, or at its option, at a location chosen or accepted by the Company as suitable and necessary for furnishing service to the general public.

Rate Center

A centralized point within a central office area or exchange area which is established for the purpose of measuring airline mileage between central office areas or exchange areas. Each rate center is assigned a unique pair of vertical and horizontal coordinates as described in Part 9, Section 2 of this tariff.

Relay Circuit

An arrangement of circuits to provide for electrical separation, but at the same time allow for the transfer or passage of operations from one circuit to one or more circuits, and also to provide where necessary, additional sources of energy.

Repeater

A combination of one or more amplifiers together with their associated equipment, so arranged as to provide for two-way transmission in a telephone circuit.

Residence Location

A place in which a person actually lives continuously and which is considered to be the person's home is a residence location.

Material formerly appeared in Exchange and Network Services Tariff,
Section 2, 2nd Revised Sheet No. 10

Issued: October 2, 1995

Effective: October 2, 1995

In accordance with Case No. 95-815-TP-ATA, issued September 1, 1995.

By J. F. Woods, President, Cleveland, Ohio

EXHIBIT A SHEET 1

PART 2 - General Terms and Conditions
SECTION 1 - Definitions and Abbreviations

Original Sheet No. 10

1. DEFINITIONS OF TERMS (Cont'd)

Right Of Way

The right which the Telephone Company obtains to use the land of another for the purpose of installing, constructing, operating and maintaining its facilities. The phrase "right of way" also means a strip of land which the Telephone Company has acquired the right to use for its facilities.

Private right of way is right of way on private property, not a part of a public highway.

Rotary Service

An arrangement under which two or more exchange services of the same class and grade, or PBX trunks of the same class, served from the same central office and furnished to the same customer, are grouped so that calls to the first number of the group are automatically routed to the first non-busy number of the group, and a busy signal or busy report is not given unless all the grouped numbers are busy.

Semi-Public Telephone Station

A Company station designed for use by the customer and the general public at locations somewhat public in character, but not suitable for the installation of a public telephone.

Service Area Function - See Part 15, Section 1 of this tariff.

Shared Tenant Service

The resale or sharing of local exchange service in a multi-tenant single building, or a contiguous complex of buildings under common ownership or management, on non-residence individual and PBX trunks, semi-public service and Centrex stations.

Telephone Company

The Ohio Bell Telephone Company

Terminal

The designation given the equipment with which a circuit is connected or the equipment on which a circuit terminates.

Material formerly appeared in Exchange and Network Services Tariff,
Section 2, 3rd Revised Sheet No. 11

Issued: October 2, 1995

Effective: October 2, 1995

In accordance with Case No. 95-815-TP-ATA, issued September 1, 1995.

By J. F. Woods, President, Cleveland, Ohio

EXHIBIT A SHEET 2

PART 3 - Service Charges
SECTION 1 - Service Charges

Original Sheet No. 3

1. SERVICE ESTABLISHMENT AND CHANGE CHARGES (Cont'd)

1.2 General Regulations (Cont'd)

- B. Service Establishment and Change Charges apply in addition to all other rates and charges for services provided by the Telephone Company.
- C. The charges specified in this section contemplate work being performed by the Telephone Company during the usual working hours on normal working days. When, at the specific request of the customer or applicant for service, work is performed at other times, either for the convenience of the customer or applicant for service or for other reasons not under the control of the Telephone Company, the expense incurred by the Telephone Company in excess of the normal expense of such work, when performed during usual working hours on normal working days, may be billed to the customer or applicant for service, in addition to the charges otherwise applicable.

1.3 Nonrecurring Charges

A. Application of NRCs to Establish Services

Except where otherwise specified in this paragraph 1.3, the same nonrecurring charges apply to residence, non-residence and semi-public service.

1. Exchange Service

The following charges are applicable to each individual exchange service being established:

	Complex		Simple	
	<u>Residence</u>	<u>Non-Residence</u>	<u>Residence</u>	<u>Non-Residence</u>
a. Local Exchange Service				
- Service Ordering Charge, per location, per occasion	\$17.65	\$ 15.85	\$ 17.65	\$ 25.50
- Central Office Connection Charge, per termination	8.25	17.00	8.25	13.00
- Line connection charge, per termination	10.60	16.50	10.60	24.35
b. Semi-public service, one-way or two-way				
- Service Ordering Charge, per location, per occasion	-	-	-	48.60

Material formerly appeared in Exchange and Network Services Tariff, Section 3, 4th Revised Sheet No. 3, 3rd Revised Sheet No. 4

Issued: October 2, 1995

Effective: October 2, 1995

In accordance with Case No. 95-815-TP-ATA, issued September 1, 1995.

By J. F. Woods, President, Cleveland, Ohio

EXHIBIT A SHEET 3

PART 3 - Service Charges
SECTION 1 - Service Charges

Original Sheet No. 16

1. SERVICE ESTABLISHMENT AND CHANGE CHARGES (Cont'd)

1.4 Network Wiring Charge

A. Application of Network Wiring Charge

1. The network wiring charge (NWC) applies for the delivery, installation, move or change of all equipment when a premises visit is required to perform such work except in the case of semi-public telephones for which the following charges apply:

- a. For installation of a semi-public telephone, apply only the Line Connection charge included in 1.3.A.1.b. preceding

- b. For moves and changes

Nonrecurring
Charge

(1) Per semi-public telephone	\$86.50
(2) Change to or from handset with volume control	75.55

2. When a premises visit is made at the request of a customer to perform work for which network wiring charges apply, a NWC applies unless the entire portion of the order which necessitated the premises visit is canceled.
3. A NWC applies separately per telephone craftsperson scheduled by the Telephone Company to perform billable work on the customer's premises. When a customer requests a shorter work interval which would utilize additional telephone craftspersons, the NWC applies separately per telephone craftsperson performing such work.
4. The NWC applies when a premises visit is made at the request of a customer for the sole purpose of converting non-modular termination points to a network interface.
5. For any work charges not provided for in this or other applicable tariffs, the customer is charged the estimated cost to be incurred, unless otherwise specified.
6. Should the customer request that the location of the network interface be other than that designated by the Telephone Company, the NWC charges will apply for the additional work required.
7. Should the customer request that a network interface other than the standard be placed at the NI location, the NWC and nonrecurring charge for the requested jack apply.

Material formerly appeared in Exchange and Network Services Tariff,
Section 3, 5th Revised Sheet No. 13, 6th Revised Sheet No. 14

Issued: October 2, 1995

Effective: October 2, 1995

In accordance with Case No. 95-815-TP-ATA, issued September 1, 1995.

By J. F. Woods, President, Cleveland, Ohio

EXHIBIT A SHEET 4

PART 11 - Operator Services
SECTION 2 - Directory Assistance (DA)
Service

Original Sheet No. 1

1. DIRECTORY ASSISTANCE SERVICE - LOCAL

A. Regulations

1. The Telephone Company will offer directory assistance service on an interim basis, subject to P.U.C.O. alteration or cancellation.
2. The regulations and charges in this Paragraph 1. apply to calls placed to directory assistance to obtain telephone numbers of services located within the same local service area. The number of such telephone numbers furnished on each call shall be limited to two.
3. Except as otherwise specified in c-(2)-(c) following, directory assistance calls from the following are not subject to the regulations and charges in this Paragraph 1.

a. Services furnished to hospitals and skilled nursing homes.

For the purpose of this paragraph, the term "skilled nursing homes" applies to those nursing homes that provide around-the-clock professional nursing care.

b. Public and semi-public telephone service, and Customer-Owned, Coin-Operated Telephones (COCOT).

c. Services furnished to the handicapped as follows:

(1) Impaired persons

(a) For purposes of this tariff, the definition of impaired refers to those persons with communication impairments, including those hearing impaired, deaf, deaf/blind, and speech impaired persons who have an impairment that prevents them from communicating over the telephone without the aid of a telecommunications device for the deaf.

(b) Residential impaired customers or impaired members of a customers' household, upon written application and upon certification of their impaired status, which is evidenced by either a certificate from a physician, health care official, or state agency, or a diploma from an accredited educational institution for the impaired, may receive a discount off their message toll service rates, and, if they utilize telebraille devices, they may receive free access to local and intrastate long distance directory assistance. Additionally, TDD lines maintained by nonprofit organizations and governmental agencies, upon written application and verification that such lines are maintained for the benefit of the impaired may receive a discount off their message toll services rates.

Material formerly appeared in Exchange and Network Services Tariff,
Section 6, 3rd Revised Sheet No. 9

Issued: October 2, 1995

Effective: October 2, 1995

In accordance with Case No. 95-815-TP-ATA, issued September 1, 1995.

By J. F. Woods, President, Cleveland, Ohio

EXHIBIT A SHEET 5

PART 13 - Public Telephone Services
SECTION 1 - Ameritech Payphone Services

Original Sheet No. 1

1. PUBLIC AND SEMI-PUBLIC TELEPHONE SERVICE

A. Public Telephone Service

1. Public telephone service is installed at the Telephone Company's initiative or at its option, at locations chosen or accepted by the Telephone Company as suitable and necessary for furnishing service to the general public. Any use of public telephones by occupants of the premises on which they are located is considered as incidental to the primary purpose. Telephones furnished with Public Service may or may not be equipped with coin collecting equipment.
2. Restriction of Service to Outgoing Calls
 - a. Effective February 17, 1994 no further installation of Public Telephones arranged to provide outgoing calls only will be permitted pursuant to the following paragraph.

Public telephones arranged to permit only the originating of telephone calls are furnished for use at locations where such use will not endanger the safety of life and property and only at the request or consent of the occupant of the premises involved, provided that, in the judgment of the Telephone Company, the furnishing of such telephones is warranted.
 - b. Effective February 17, 1994, at the written request of the property owner, commercial tenant, subscriber of Semi-Public service, or the municipality, local exchange company Public and Semi-Public telephones may provide outgoing only service. Should the instrument be limited to outgoing only service, notice must be posted on the telephone instrument.
3. In all cases the Telephone Company furnishes and displays such of its signs as are necessary to advertise the public telephone properly.
4. Since public telephone service is not a customer service, additional services, equipment and facilities provided under other sections of this tariff, or in other tariffs of the Telephone Company, are not provided with public telephones, except as the Telephone Company at its discretion chooses to use such services, equipment or facilities.
5. Public telephones are installed upon the signing by the occupant of the established forms of application, without specific term and terminable either by the occupant or by the Telephone Company upon written notice.
6. Local and toll messages from public telephones are charges as set forth in C following.

Material formerly appeared in Exchange and Network Services Tariff,
Section 5, 6th Revised Sheet No. 79 and Original Sheet No. 79.1

Issued: October 2, 1995

Effective: October 2, 1995

In accordance with Case No. 95-815-TP-ATA, issued September 1, 1995.

By J. F. Woods, President, Cleveland, Ohio

EXHIBIT A SHEET 6

PART 13 - Public Telephone Services
SECTION 1 - Ameritech Payphone Services

Sheet No. 2 Revision No. 1
Cancels
Original Sheet No. 2

1. PUBLIC AND SEMI-PUBLIC TELEPHONE SERVICE (Cont'd)

B. Semi-Public Telephone Service

1. Semi-public service is a combination of customer and public telephone service and is in general designed to meet telephone service requirements at locations where, in the opinion of the Telephone Company,
 - a. the installation of a public telephone is not warranted but there is a sufficient demand for service on the part of transients;
 - b. there is a collective use of the service by a relatively stable body of guests, members, employees or occupants; and
 - c. it is necessary to care for a combination of transient and customer usage.
2. Semi-public telephones must be located on customers' premises so as to be readily accessible for use by the public.
3. Customers shall, if required, display telephone signs furnished by the Telephone Company.
4. The Telephone Company has the right to require the customer to redeem all slugs and spurious, mutilated or foreign coins deposited in the coin collecting device at the value for which they were deposited therein and to make good all losses due to theft or fraudulent practices, and in the event the customer refuses to redeem such slugs and spurious, mutilated or foreign coins or to make good all losses due to theft or fraudulent practices, the Telephone Company will disconnect and remove its telephone and coin collecting device.
5. The Telephone Company will refuse to provide, maintain or restore service at locations where, in its judgment, losses by theft are likely to occur, unless the customer executes an agreement to indemnify the Telephone Company against such losses.
6. Restriction of Service to Outgoing Calls
 - a. Effective February 17, 1994 no further installations of Semi-Public telephones arranged to provide outgoing calls only will be permitted, pursuant to the following paragraph.

Semi-Public telephones arranged to permit only the originating of telephone calls are furnished where facilities permit, for use at locations where such use will not endanger the safety of life and property and only at the request or consent of the occupant of the premises involved, provided that, in the judgment of the Telephone Company, the furnishing of such telephones is warranted.
 - b. Effective February 17, 1994, at the written request of the property owner, commercial tenant, subscriber of Semi-Public service, or the municipality, local exchange company Public and Semi-Public telephones may provide outgoing only service. Should the instrument be limited to outgoing only service, notice must be posted on the telephone instrument.
7. The rates and charges for semi-public telephone service are included in C. following.

(T)

Issued: November 27, 1995

Effective: December 13, 1995

In accordance with Order No. 71-48-T, issued by The Public Utilities Commission of Ohio, April 13, 1971.

By J. F. Woods, President, Cleveland, Ohio

EXHIBIT A SHEET 7